

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 18684 (Application A026649)

Estate of Peter A. Gasser

ORDER REVOKING PERMIT

SOURCE: Sarco Creek

COUNTY: Napa County

WHEREAS:

1. Will Nord is the authorized agent for the Estate of Peter Gasser, the holder of water right Permit 18684.
2. On April 2, 2008, the Permittee's authorized agent requested that the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), revoke Permit 18684.
3. By signing the voluntary request for revocation, Permittee waived the right to the hearing and notice requirements set forth in Water Code sections 1410 and 1410.1.

THEREFORE:

It is ordered that Permit 18684 is hereby revoked by the State Water Board, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

**ORIGINAL SIGNED BY
JOHN O'HAGAN FOR:**

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: JUL 31 2008

bcc: Field Files

CRich:tvallejo 09.15.2008

P 186-89

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

ORDER

Application 26649 Permit 18684

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 18684 was issued to Peter A. Gasser on December 29, 1982, pursuant to Application 26649.

Permit 18684 was subsequently assigned to the Estate of Peter A. Gasser on June 24, 1985.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on August 23, 1999.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time. Public notice of the request for extension of time was issued on October 15, 1999 and no protests were received.
4. The SWRCB has determined that the petition for extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

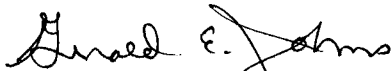
Complete application of the water to the authorized use shall be made by
December 31, 2010.

(0000008)

2. An endangered Species term shall be added to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)



For

Harry M. Schueller
Division Chief

Dated: 5/11/2000

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26649

PERMIT 18684

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. Permit 18684 was issued to Peter A. Gasser on December 29, 1982 pursuant to Application 26649.
2. Permit 18648 was subsequently assigned to Estate of Peter A. Gasser.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
5. Permit Condition 12 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1992 (0000008)

2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1994 (0000009)

3. Condition 12 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.


The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to

eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: **NOVEMBER 01 1988**

for 
Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18684

Application 26649 of Peter A. Gasser (owner)
2826 Monticello Road, Napa, California 94558

filed on December 5, 1980, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

<u>Sarco Creek</u>	<u>Milliken Creek thence</u>
<u></u>	<u>Napa River thence</u>
<u></u>	<u>San Pablo Bay</u>
<u></u>	<u></u>
<u></u>	<u></u>

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>Diversion to Offstream Storage</u>					
<u>South 1,530 feet and West 1,000 feet</u>	<u>SE$\frac{1}{4}$ of NE$\frac{1}{4}$</u>	<u>35</u>	<u>6N</u>	<u>4W</u>	<u>MD</u>
<u>from NE corner of Projected Section 35</u>					
<u>Unnamed Reservoir</u>	<u>NW$\frac{1}{4}$ of NE$\frac{1}{4}$</u>	<u>35</u>	<u>6N</u>	<u>4W</u>	<u>MD</u>

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>Heat Protection</u>						
<u>Frost Protection</u>						
<u>Irrigation</u>	<u>NW$\frac{1}{4}$ of NE$\frac{1}{4}$</u>	<u>35</u>	<u>6N</u>	<u>4W</u>	<u>MD</u>	<u>27</u>
	<u>NE$\frac{1}{4}$ of NE$\frac{1}{4}$</u>	<u>35</u>	<u>6N</u>	<u>4W</u>	<u>MD</u>	<u>8</u>
	<u>SW$\frac{1}{4}$ of NE$\frac{1}{4}$</u>	<u>35</u>	<u>6N</u>	<u>4W</u>	<u>MD</u>	<u>5</u>
	<u>SE$\frac{1}{4}$ of NE$\frac{1}{4}$</u>	<u>35</u>	<u>6N</u>	<u>4W</u>	<u>MD</u>	<u>5</u>
					<u>Total</u>	<u>45</u>

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 45 acre-feet per annum to be collected from November 1 of each year to May 30 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second.

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

8. Construction work shall be completed by December 1, 1985.

9. Complete application of the water to the authorized use shall be made by December 1, 1986.

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

14. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

15. For the protection of fish and wildlife, permittee shall during the period: (A) from November 1 through November 14 bypass a minimum of 1.0 cubic feet per second, (B) from November 15 through February 28 bypass a minimum of 3.0 cubic feet per second, (C) from March 1 through March 31 bypass a minimum of 1.5 cubic feet per second and (D) From April 1 through May 30, bypass a minimum of 1.0 cubic foot per second. The total streamflow shall be bypassed 0140060 whenever it is less than the designated amount for that period.

16. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained.

17. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of permittee.

18. Diversion of water between March 15 and May 15 shall be subject to control under a water distribution program administered by the State Water Resources Control Board or by the Department of Water Resources at any time such a program is in effect at the project location.

- A. Diversion after March 15 is contingent upon participation in the water distribution program by the permittee.
- B. No diversion is allowed after March 15, except to replenish water stored prior to March 15, unless otherwise authorized by the watermaster in charge of the distribution program.
- C. Prior to making diversions after March 15, permittee shall install and maintain a device, satisfactory to the watermaster, which is capable of measuring the instantaneous rate of diversion and the accumulative amount of water diverted during participation in the distribution program.
- D. Permittee's participation in any water distribution program required under the terms of this permit shall be evidenced by returning the information sheet distributed prior to the frost season and paying costs as apportioned at the end of the season.
- E. The water distribution program required under this permit may be revised periodically by the Board provided that the program shall be substantially consistent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court.

(000 0085)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DECEMBER 29 1982

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash

Chief, Division of Water Rights

P18684

- 6-24-85 Name chgd to Estate of Peter A. Gasser
- 7-29-86 Ownership Chgd to William Garnis
- 10-2-86 Ownership Chgd to Estate of Peter A. Gasser